

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6642

BILL NUMBER: HB 1043

NOTE PREPARED: Feb 18, 2015

BILL AMENDED: Feb 17, 2015

SUBJECT: Medical Malpractice Caps.

FIRST AUTHOR: Rep. Torr

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation:(Amended) This bill has the following provisions:

- (1) Increases the medical malpractice cap from \$1,250,000 to \$1,650,000 for claims arising after June 30, 2015.
- (2) Provides that payments from the Medical Malpractice Patient's Compensation Fund are to be disbursed not later than 60 days after the issuance of a final, nonappealable judgment.
- (3) Increases pay for medical review panel members from \$350 to \$500.
- (4) Increases potential pay for the medical review panel chairperson from \$2,000 to \$2,500.
- (5) Increases the maximum potential liability of a qualified health care provider for an occurrence of malpractice from \$250,000 to: (1) \$300,000; or (2) \$400,000 if the action against the health care provider results in a final judgment in favor of the plaintiff.
- (6) Eliminates provisions under which the liability of a qualified health care provider or the qualified health care provider's insurer could be discharged through a periodic payments agreement under which the cost borne by the qualified health care provider or the qualified health care provider's insurer (consisting of the present payment and the cost of future payments) could be less than the cost of discharging the liability solely through an immediate payment.

Effective Date: July 1, 2016.

Explanation of State Expenditures: (Revised) Summary: The bill increases the maximum state payout from the Medical Malpractice Victim's Compensation Fund between \$250,000 and \$350,000 per claim. Increasing the maximum payout from the Medical Malpractice Victims' Compensation Fund is not expected to deplete the fund's reserves in the near future.

(Revised) Additional Information:

Medical Review Panel Member Payment: Payment for a medical review panel comes from one or both of the named parties, depending on the panel's determination. Increasing review panel chairperson and member payment is not expected to have a fiscal impact on the state.

Medical Malpractice Patient's Compensation Fund Payments: The following table illustrates the impact of the bill on the (1) state Medical Malpractice Victim's Compensation Fund and (2) qualified health care providers.

Payor	Current Maximum Payout	Proposed Settlement Maximum Payout	Proposed Judgment Maximum Payout	Increase
Medical Malpractice Compensation Fund	\$1.0 M	\$1.35 M	\$1.25 M	\$0.25 to \$0.35 M
Health Care Providers	\$0.25 M	\$0.3 M	\$0.4 M	\$0.05 to \$0.15 M
Total	\$1.25 M	\$1.65 M	\$1.65 M	\$0.3 to \$0.4 M

The increased Medical Malpractice Victim's Compensation Fund payment amount will depend on whether the malpractice lawsuit is settled out of court or proceeds to trial. In instances where a malpractice lawsuit is settled out of court, the maximum fund exposure would be \$1.35 M (instead of the current \$1.0 M), which would be a maximum net increase of \$0.35 M per claim. In instances where a malpractice lawsuit goes to trial and a judgment is entered, the maximum fund exposure would be \$1.25 M, which would be a maximum net increase of \$0.25 M per claim.

As of December 2014, the Medical Malpractice Victims' Compensation Fund had a balance of \$133.4 M. During CY 2014, a total of 168 claims were paid from the fund for a total value of \$128.3 M (an average of \$764,000 per paid claim). A total of 58 claims received the maximum payment of \$1 M during this time period.

It is not known how many of these 58 claims might have received a higher payout from the fund if the payment cap were \$1.65 M instead of \$1.25 M. If these 58 claims would have received the maximum amount available under the increased cap (a \$250,000 to \$350,000 increase), the maximum total expenditure increase per year is estimated to be \$20.3 M annually (or 15% of the December fund balance).

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IDOI.

Local Agencies Affected:

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